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5 Attorney for Plaintiffs

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF KERN  
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11 James Harvey & Emily Harvey,

12 Plaintiffs,

13 v.

14 Kaiser Permanente, San Joaquin Memorial  
15 Hospital, Ronald Peterson, D.O. and DOES 1 to  
16 50, Inclusive,

17 Defendants

Case No.

COMPLAINT FOR:

- 1) MEDICAL MALPRACTICE  
2) LOSS OF CONSORTIUM

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19 Plaintiffs James Harvey and Emily Harvey allege as follows:

- 20 1. Plaintiff James Harvey is and at all times relevant herein was a resident of Kern  
21 County.  
22 2. Plaintiff Emily Harvey is and at all times relevant herein was a resident of Kern  
23 County.  
24 3. Defendant Kaiser Permanente is and at all times relevant herein was an entity which  
25 business activities were conducted in Kern County.  
26 4. Defendant San Joaquin Memorial Hospital is and at all times relevant herein was an  
27 entity which business activities were conducted in Kern County.  
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- 1 5. Defendant Ronald Peterson, D.O. is and at all times relevant herein was an  
2 emergency room doctor with business activities conducted in Kern County.
- 3 6. Defendants DOES 1 to 50, inclusive, are people / entities whose identities and  
4 involvement are not known to the Plaintiffs but are believed to be in some way  
5 liable to the Plaintiffs. Plaintiffs will seek leave to amend the complaint once these  
6 people's / entities' identities and involvement are realized.

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8 **I. RELEVANT FACTS**

- 9 7. Plaintiff James Harvey and Plaintiff Emily Harvey are and at all times relevant  
10 herein were legally married.
- 11 8. On or about April 24, 2015, Plaintiff James Harvey began to experience  
12 excruciating, sharp pain on the left side of his chest. Such pain was radiating to his  
13 sternum, neck and even to his face.
- 14 9. In addition, James also experienced an extreme shortness of breath.
- 15 10. Although it would last for just a few seconds at a time, the pain was worsened to an  
16 intolerable degree on April 25, 2015, such that James was ultimately taken to San  
17 Joaquin Memorial Hospital emergency care.
- 18 11. Plaintiff was a member of Kaiser Permanente, which had contracted with San  
19 Joaquin Memorial Hospital for all services to be provided to its members.
- 20 12. Upon being admitted into San Joaquin Memorial Hospital as a Kaiser Permanente  
21 member, James was assigned under the care of Dr. Ronald Peterson, D.O.
- 22 13. Dr. Peterson ordered, and members of Kaiser Permanente and San Joaquin  
23 Memorial Hospital performed, a series of preliminary tests, which included  
24 Electrocardiogram (EKG), blood tests, and chest x-ray.
- 25 14. No angiography was performed.
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- 1 15. Based only on the result of these preliminary tests, Dr. Peterson concluded that  
2 James was suffering from hypertension and set him home for noncardiac chest pain.
- 3 16. James had complained to the staff of San Joaquin Memorial Hospital and those of  
4 Kaiser Permanente about the excruciating chest pain he was experiencing. And yet  
5 he was released back home.
- 6 17. Without any immediate medical care at home, the condition of James Harvey then  
7 deteriorated rapidly on April 26, 2015. Without being all inclusive, his chest pain  
8 now became persistent. In fact, he collapsed in the bedroom of his home and was  
9 then transported CHW Hospital via ambulance.
- 10 18. This time, serious cardiac condition was found. Troponin was checked and was  
11 positive. He was diagnosed with non ST-segment myocardial infarction.
- 12 19. An angiography was performed, and it was determined that James had a "100%  
13 occlusion of the right coronary artery.
- 14 20. On or about May 18, 2015, a letter of intent to sue was mailed to all defendants  
15 named herein. (*Exhibit I*). No resolution was reached.

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18 **II. FIRST CAUSE OF ACTION – MEDICAL MALPRACTICE (AGAINST ALL**  
19 **DEFENDANTS)**

- 20 21. Plaintiff James Harvey incorporates herein all previously stated paragraphs.
- 21 22. Defendants, and each of them, were in the medical profession and hence owed  
22 Plaintiff a duty of due care not to subject the latter to unreasonable or unnecessary  
23 physical harm by being careless in the medical services they provided.
- 24 23. In fact, as medical professionals and providers, Defendants, and each of them, were  
25 held to a reasonably acceptable standard of medical care, below which their  
26 performance would constitute unacceptable.
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1 24. Defendants, jointly and severally, acted below the acceptable medical standard on  
2 April 25, 2015. Namely, but not exclusively, they knew or should have known that  
3 James' condition was abnormal and potentially serious. After all, James had  
4 continuously complaining of excruciating chest pain. He also had exhibited all the  
5 classic symptoms of a heart attack (i.e., sweating, dizziness, shortness of breath,  
6 pain radiating to the left side of his body up to the neck and face). Under similar  
7 circumstances, the last thing someone in Defendants' position, with Defendants'  
8 expertise and experience, would have done was to release Plaintiff James Harvey  
9 back home without any immediate medical care.

11 25. And yet, Defendants, and each of them, did exactly what they should not do but  
12 releasing James back home with a diagnosis of "non-cardiac chest pain."

13 26. As a direct and proximate result of said carelessness, James' condition took a turn  
14 for the worst. By April 26, 2015, his pain intensified, and he collapsed at his house.  
15 A more in-depth examination revealed that his troponin was positive, that he was  
16 suffering for a heart attack, and he was diagnosed with a 100% blockage of his right  
17 coronary artery. His condition brought him to a near death condition, and he had to  
18 undergo months of intensive recovery program before he could live a somewhat  
19 normal life again.

21 27. Had Defendants, and each of them, been more careful in their diagnostic work, or  
22 had they followed the standard of care for medical professionals, James would not  
23 be released back home on April 25, 2015, without any immediate medical attention,  
24 and his worsened condition on April 26, 2015, and thereafter would not have  
25 occurred.

27 28. As a result of Defendants' negligence, Plaintiff James Harvey sustained permanent  
28 medical injuries in an amount to be determined at trial.

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**III. SECOND CAUSE OF ACTION – LOSS OF CONSORTIUM (AGAINST ALL DEFENDANTS)**

29. Plaintiffs incorporate all previously stated paragraphs herein.

30. Plaintiff Emily Harvey was at all times relevant herein and is still legal married to Plaintiff James Harvey.

31. Because of the medical malpractice alleged above, Emily had suffered a loss of consortium. For example, but not exclusively, she had to perform the tasks that were normally performed by her husband James, who had become physically unable to perform such tasks due to his untimely diagnosed heart attack. Emily also had to incur the expenses and labor in taking care of James and transporting him to and from his doctors for his recovery care. None of these tasks would have been necessary but for the medical malpractice of Defendants.

32. Due to the foregoing, Plaintiff Emily Harvey sustained a loss of consortium in an amount to be determined at trial.

WHEREFORE, Plaintiffs pray for:

1. General damages,
2. Specific damages
3. Economic damages,
4. Noneconomic damages,
5. Attorney's Fees,
6. Costs of Suit; and
7. Any and all other remedies that this Court deems just and proper.

DATED: February 27, 2016

Law Offices of John Fu

By: \_\_\_\_\_

John Fu, Esq.